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# TECHNICAL MEMORANDUM


## Utah Coal Regulatory Program

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July 30, 2012

TO: Internal File

THRU: Pete Hess, Lead

FROM: Joe Helfrich, Biology, Landuse, Cultural Resources 

RE: Midterm Review Response, Intermountain Power Agency,  
Wildcat Loadout, C/007/0033, Task ID #4142

### **SUMMARY:**

On September 29, 2011 James A. Hewlett, Resident Agent for Intermountain Power Agency was notified of the Division's initiation of the midterm review for the Wildcat Loadout facility. The review includes the following:

A. Review of the Plan to ensure that the requirements of all permit conditions, division orders, notice of violation (NOV), abatement plans, and permittee-initiated Plan changes approved subsequent to permit approval or renewal (whichever is the most recent) are appropriately incorporated into the Plan document.

B. Ensure that the Plan has been updated to reflect changes in the Utah Coal Regulatory Program which have occurred subsequent to permit approval or renewal.

C. Review applicable portions of the permit to ensure that the Plan contains commitments for application of the best technology currently available (BTCA) to prevent additional contributions of suspended solids to stream flows outside of the permit area.

D. Evaluate the compliance status of the permit to ensure that all unabated enforcement actions comport with current regulations for abatement; verify the status of all finalized penalties levied subsequent to permit issuance or permit renewal, and verify that there are no demonstrated patterns of violation (POV). This will include an AVS check to ensure that Ownership and Control information is current and correct.

E. Evaluate the reclamation bond to ensure that coverage adequately addresses permit changes approved subsequent to permit approval or renewal, and to ensure that the bond amount is appropriately escalated in current-year dollars.

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F. Evaluate the permit for compliance with variances or special permit conditions.

G. Optional for active mines, mandatory for reclamation only sites: conduct a technical site visit in conjunction with the assigned compliance inspector to document the status and effectiveness for operational, reclamation, and contemporaneous reclamation practices undertaken on predetermined portions of the disturbed area to minimize, to the extent practicable, the contribution of acid or toxic materials to surface or groundwater, and to otherwise prevent water pollution.

On November 8, 2011 the completion of the midterm review was sent to IPA. On May 9, 2012 the Division received a response to the deficiencies noted in the midterm review. On June 5, 2012 the completion of the review of IPA's response to the midterm review was sent to IPA. On June 29<sup>th</sup>, 2012 the Division received a response to the deficiencies enumerated in the June 5<sup>th</sup> correspondence to IPA.

This memo will include a review of items A and B as they pertain to the biology, cultural resources and the landuse sections of the regulations.

**TECHNICAL ANALYSIS:**

A. Review of the Plan to ensure that the requirements of all permit conditions, division orders, notice of violation (NOV), abatement plans, and permittee-initiated Plan changes approved subsequent to permit approval or renewal (whichever is the most recent) are appropriately incorporated into the Plan document.

**Analysis:**

The Division Order # DO-04 was incorporated into the MRP on 10/18/2011. The order included a 7-8 step action plan that was not to be implemented prior to July 10, 2010 or as recommended by a Division biologist. The Division received a letter from the prior permittee's resident agent, (Dave Shaver), dated 10/26/2010 noting that the coal fines had been cleaned up and the area had been disked, roughed, mulched and seeded. Although the clean up of the coal fines appeared to have addressed items 1 and 4 of the Division Order there was no mention in the order of disking, roughening, mulching or seeding, items 6 and 7 of Appendix P have been revised to note that "*As such time as the construction of new pond G becomes necessary*".

**Findings:**

The information in the MRP is adequate to meet the requirements of this section of the regulations. [JCH]

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B. Ensure that the Plan has been updated to reflect changes in the Utah Coal Regulatory Program which have occurred subsequent to permit approval or renewal.

**Analysis:**

Although the language in the definition of intermittent stream, (1 square mile area), has been deleted this would not necessitate an update to the current Wildcat MRP.

**Findings:**

The information in the MRP is adequate to meet the requirements of this section of the regulations.

**RECOMMENDATIONS:**

The Division Order noted in item A of the midterm review has been addressed, the midterm review is recommended for approval.